

# **DRAFT**

## **Governor's Blue Ribbon Water Task Force**

### **Meeting Notes November 16-17, 2005 Albuquerque, NM**

**Attendees:** Larry Blair, Conci Bokum, Brian Burnett, Frank Chavez, John D'Antonio, Jim Dunlap, Lisa Henne, Steve Hernandez, Sarah Kotchian, John Leeper, Elmer Lincoln, Jr., Estevan Lopez, Paul Paryski, Elmer Salazar, Karin Stangl, and Jack Westman attended the meeting. Maureen Haney assisted with the OSE presentation.

#### **Topics Covered:**

1. Updates from the Regions
2. Guest Presentation
3. Navajo Nation Water Rights Settlement Tour/Media Event
4. Navajo Nation Water Rights Settlement Progress
5. Navajo Nation Water Rights Settlement Video
6. Redesigned OSE/ISC Website
7. State Water Plan Implementation Report
8. Resolution to Capitalize the Water Trust Fund
9. Monthly Report from OSE/ISC

#### **1. Updates from the Regions**

- Elmer Salazar described his involvement as a mediator in a case in which an application to the OSE to divert water is facing community opposition. The use of a non-binding mediation process was suggested by Ed Newville, the attorney for the applicant in this case and a former member of the OSE legal staff. The case is being looked at as a possible model for addressing community and OSE concerns about applications to arrive at mutually agreeable solutions in a timely manner. Elmer will ask for feedback on the effectiveness of the mediation process from OSE staff and Ed Newville, and will report back to the Task Force in 2-3 months.
- Jack Westman made a presentation to the Economic Forum about the implications of the Navajo Settlement for San Juan Chama users. The Growth and Development committee will be meeting on December 8 to get a full report on the significance of the settlement to the business community. John Utton and other staff will present at the meeting. Jack is trying to get Representative Wilson and Senator Dominici to attend, and Elmer Salazar suggested inviting Representative Udall to attend as well. Elmer Lincoln suggested inviting John Leeper to present at the meeting. Jack will work with Karin to develop a presentation. The UNM economic study should be available the first week of December, and that information will be useful for the presentation to the economic forum.

Brian Burnett commented that building support for the settlement among the business community will require a thorough understanding of different players and a commitment to a

collaborative approach. Frank Chaves added that the message needs to be consistent, but should also be tailored to each audience. It is important to foster stakeholder involvement in the settlement when these kinds of opportunities arise. Elmer Lincoln suggested using a bipartisan approach that clarifies the risk to San Juan Chama water in the absence of a settlement but does so in a manner that is inspiring rather than threatening.

Jack mentioned that Albuquerque has specific concerns about the shortage sharing language in the settlement agreement and wants to revisit the issue, including having more details about sharing under different scenarios.

- Jack also met with Subhas Shah (Chief Engineer, MRGCD). The Conservancy District is interested in hosting the Blue Ribbon Water Task Force to answer questions and provide an update on recent activities. Task Force members suggested scheduling the visit for the May 2006 meeting.
- Steve Hernandez is involved with an Elephant Butte case challenging the City of Santa Fe request to transfer ground water rights from Elephant Butte to offset pumping depletions at the Santa Fe well field. The state is now reconsidering what water rights can be used for offsets.
- The Pecos Valley Artesian Conservancy District (PVACD) will introduce a bill in this session that would permit conservancy districts to continue to tax land at full value after a water right is retired within a district.
- Jim Dunlap mentioned that Senate Bill 895 (Rural Water Supply Act of 2005), which provides for rural areas to build infrastructure from pipelines, passed the Senate and will be sent to the House. Frank Chaves asked whether infrastructure that is currently included in the cost of the Navajo Settlement could be funded through this program and removed from the settlement costs. Jim responded that it would probably be possible under the program.
- Chairman Dunlap invited the Task Force to attend the legislative briefing during the December 20<sup>th</sup> ISC meeting. The meeting will be held in the ISC conference room. Lisa will inform the Task Force of the scheduled time for the briefing.

## **2. Guest Presentation**

Oscar Larach (Stormh2osolutions) gave a presentation on the storm water management and reuse projects that his company has designed for a variety of applications throughout the world. Examples included rooftop gardens, parking lot drainage, wall drainage, retention basins, and infiltration tanks, among others. All of these projects used Atlantis Drainage Cells to store and purify water. Slides from the presentation are available at <http://eweb.lanl.gov/blueribbon.htm>. See <http://www.stormh2osolutions.com> and <http://www.atlantiscorp.com.au/Home> for more information about these companies, projects, and technologies.

## **3. Navajo Nation Water Rights Settlement Tour/Media Event**

Karin Stangl gave a presentation on the San Juan River Settlement Tour/Media Event, which occurred on Saturday, November 12. The Navajo Nation sponsored the tour. President Shirley, Vice President Dayish, Senator Bingaman, Bill Hume, and Chairman Dunlap attended the event,

which was covered by KOAT, KOBTV, and the Navajo Times. Senator Bingaman talked about other states having had settlements funded, but not New Mexico. An OSE video crew taped the press conference and got additional coverage for the video. The tour included a stop at the water filling station. Karin provided handouts of the proposed settlement timeline, press releases, and a list of benefits of agreement.

Estevan Lopez commented that there is a great deal of water spilled in the area where people fill their tanks, which would undoubtedly create a safety hazard in the winter. An application for funding for some renovations was submitted to the Water Trust Board. Elmer Salazar suggested that it might be useful for some Task Force members to visit the site to look for other ways that the Task Force can assist.

#### **4. Navajo Nation Water Rights Settlement Progress**

Paul Paryski asked John D'Antonio and Estevan Lopez about Governor Richardson's level of support for the settlement. John noted that the Governor has not been directly engaged, but has been involved through Bill Hume. Estevan has spoken to Bill Hume, who conveyed that he has not lost interest in the issue and will make an effort to be more involved.

Frank Chaves commented that the settlement could get elevated attention with the election of San Juan Pueblo Governor Joe Garcia as President of the National Congress of American Indians. It will be important for Governor Richardson and Bill Hume to stay ahead of the issue. With other western governors facing similar situations, Governor Richardson has an opportunity to be a leader in settlement issues.

Elmer Salazar pointed out that all of the tribes and pueblos are watching what happens with the settlement, and that it is critical to make presentations to them and get feedback at an early stage. John D'Antonio responded that the OSE has set up meetings through Myron Armijo and the State Tribal Water Institute. There will be another meeting soon, and they will make sure to talk about the settlement. Myron emphasized that John and Estevan had been making a significant effort to reach out to the tribes.

Frank commented that given the potential for competition for the limited resources available for funding settlements, there needs to be a discussion about how all of the tribes will benefit from the settlement. Specifically, the possible ways in which future settlements could be impacted by funding the Navajo settlement should be discussed. John added that based on what he has seen, once one or two settlements are completed, the others follow more quickly.

John mentioned that he, Myron and Estevan have been talking about pushing for a federal funding mechanism for Indian water rights settlements. Frank cautioned that such a proposal would need to come from the Tribal side and to have a thorough analysis done first. He also advised against drawing too much attention to one segment of population, given that water settlements involve and benefit more than just Native Americans. Jim Dunlap stated that a stable source of federal funding will require raising the awareness of eastern states, and an understanding that it will be much less costly to take care of the problem now rather than later (e.g. Aamodt case).

John D'Antonio gave a presentation at the last meeting of the interim water and natural resources committee. His approach was to bundle all of the New Mexico water supply projects so that they support each other and look coherent at a national level. Water rights settlements were included in that project list. John broke down the investment into 5-year and 10-year time frames to show how it could be paid for over 10 years, while using state investment to generate Federal backing. The Committee is interested in funding water projects using surplus oil and gas revenues, but water projects will be competing with health care, education, etc. for those funds. Also, the legislature does not want to fund recurring expenses with non-recurring money (i.e., oil revenue). Jack Westman pointed out that New Mexico does not have a recurring revenue source for water.

## **5. Navajo Nation Water Rights Settlement Video**

Karin Stangl handed out a draft of the script for the video, which is scheduled for completion in December. Frank Chaves will assist Karin with contacting Governor Joe Garcia to request an interview for the video. Karin is thinking about possible next steps, including letter writing and media visits. The economic study from UNM will probably provide useful information for creating fact sheets.

## **6. Redesigned OSE/ISC Website**

Karin Stangl presented the redesigned OSE website. She encourages Task Force members to visit the site and provide her with comments or suggestions by email ([karin.stangl@state.nm.us](mailto:karin.stangl@state.nm.us)) or on a mail-in form (appended to these meeting notes).

[A page listing the members of the Blue Ribbon Water Task Force is now posted to the OSE website at [www.ose.state.nm.us](http://www.ose.state.nm.us), under "more information"]

## **7. State Water Plan Implementation Report**

Karin also passed out revised drafts of the State Water Plan implementation reports. These reports are formatted as 1-2 page documents that relate to specific State Water Plan goals, such as protecting state administrative authority over state's waters, developing water resources to expand available supply, and completing water rights adjudication. The sections for "Next Steps" or "Challenges", which will show the need for continued support to complete the initiatives, are still being drafted.

## **8. Resolution to Capitalize the Water Trust Fund**

A resolution to capitalize the Water Trust Fund is being circulated among local governments and other entities. The resolution calls for \$125M of oil and gas surplus revenue (\$600M to \$1B anticipated) to be put into Water Trust Fund. Conci Bokum raised the question of whether the Task Force should add the same information in the resolution to our list of priorities for 2006. John D'Antonio stated that the approximately \$5M per year of interest that would be earned from capitalization could be used for bonding and would provide a source of recurring funds. Interest on the Water Trust Fund can be used to leverage bonds, but can not be spent directly for smaller projects. Putting money in trust fund would help protect the corpus by making it harder to access, and the money would be earmarked for water needs. A plan could be put together to bond the interest to fund projects that are high priority.

Paul Paryski asked for an update on the status of the criteria committee. John responded that the committee came up with new version of application to try to evaluate the projects more fairly, and is in the process of evaluating the projects and scoring them. The scores will be compared to see what can be funded with the approximately \$20M this year that is expected. The committee is also trying to get feedback from governor to see what his top priority projects are and how they mesh with rankings.

The Task Force decided to add Tater Trust Fund capitalization as a priority recommendation in the 2005 report to Governor Richardson. The report should also show the close connection between funding for water and the welfare of New Mexico children.

## **9. Monthly Report from OSE/ISC**

- Estevan Lopez reported that the Middle Rio Grande continues to have issues with the Endangered Species Act (ESA). The ISC will be going to Washington to talk to the Department of the Interior about potential issues with the biological opinion in upcoming years. Compliance with the biological opinion is possible only when water is available. The silvery minnow population is doing much better than it was a few years ago, partly as a result of better management, but also due to the wet spring. Regardless of whether future years are wet or dry, now is the time to begin thinking about a strategy for staying in compliance with the ESA. The options are to let it get to a crisis state, or start working on it now while the population is doing well. Although this is technically under the jurisdiction of the Department of Interior, ISC will probably need to help manage the issue.
- On November 15<sup>th</sup>, the ISC reaffirmed a position that development around Ute reservoir needs to have a master plan in place. The reservoir was built to provide water to eastern communities, which are running out of water. There is significant pressure to develop around the shores of reservoir, which one of the last undeveloped reservoirs in the west. Wayne Cunningham noted that bare land on the Ute reservoir is being sold for very high prices. Most of the land is owned by developers. ISC supports economic development in that area, but wants it to happen in the context of a completed master plan so that there is a clear vision of how that development meshes with preservation of water supply for eastern communities. 20,000 acre-feet of water in the Ute reservoir that is under contract for municipalities, etc. would be used for development. The ISC not opposed to the development, but wants it done in such a way that it does not undermine the long-term stability of that portion of the state.

The ISC adopted a resolution supporting economic development in that area; however, it is very important to look at how that development could impact other communities to make sure that their future is not compromised. The developers are asking for ISC approval because they want to put a golf course on ISC owned land. The development could proceed without the ISC land, but it would be desirable to work with the developers so that ISC could also benefit from their use of the land, or at least have them pay for the cost of protecting that source of water. If the developers put a golf course on their own land, the ISC would still have the task of ensuring that they comply with environmental standards, but might have less control over land use. The ISC is looking for a balanced solution that protects the state's interests. To date, the developers have not provided sufficient information about their plans for the development to get ISC approval. The ISC wants to see more information about issues such as public access and water quality protection related to the golf course and septic systems.

Elmer Salazar commented that there can be inherent conflicts with water supply reservoirs and shore developments because when reservoir levels are very low, people who own lakeshore property get upset because they think of the lake as an amenity. He mentioned Heron Lake as an example. Steve Hernandez added that a similar development scenario created problems at Elephant Butte. When the reservoir had to be drawn down, people who lived along the lake started trying to figure out how to keep water in the reservoir, even though they didn't have water rights.

- John D'Antonio reported that he is working on a farm delivery requirement for the Lower Rio Grande so that he can issue draft rules for AWRM. The OSE is also sending letters out to remind people of metering requirements. The letter includes information on acceptable meter types. Metering will begin by March.
- John D'Antonio has been working with Bill Hume on the domestic well issue, and will take an administrative as opposed to legislative approach this year. Paul Paryski commented that a 0.25 acre-foot limit would not have much impact [in the context of average use being close to 0.25 af]. John replied that it is possible to do things administratively with domestic wells in areas where all of the water is appropriated. The basis for administrative rules lies in statutes, which read that the OSE has to issue domestic well permits, but is also not to over-appropriate water. The OSE will have to hold public meetings to get rules promulgated.
- Six of 13 water masters have been hired.
- Estevan Lopez reported on progress in implementation of the Pecos Settlement. By the end of the fiscal year, the ISC should have all of the \$48M committed in contracts. The well driller for the augmentation well field will be back in January, and should be able to complete the work fairly quickly. The two Environmental Impact Statements that need to be done by August 2006 are on schedule.

The ISC is developing management plans for land that is being purchased for water rights. Each parcel will have a management plan associated with it that will cover grazing, mowing, spraying, seeding, etc. The goal is to minimize maintenance costs by promoting native vegetation that requires little or no maintenance.

- Elmer Salazar asked whether water banks are helping with mutual domestics and water supply. John D'Antonio replied that he looks unfavorably at long-term leasing of water rights for permanent uses. However, mutual domestics need short term solutions while they work on permanent solutions, and short-term leases might help with that.

For tribes, differing definitions about meaning of water rights is a barrier to setting up water banks and long-term leases.

- The Water Use and Conservation Bureau chief and John Longworth are working on developing guidelines for landscape water harvesting.

**SURVEY FORM**  
**FOR THE NEW OFFICE OF THE STATE ENGINEER WEBSITE**  
*-- Please take a minute to give us your input --*



It's here! The Office of the State Engineer is announcing the agency's new website. You can view the website at the following test link:

<http://www.ose.state.nm.us/newtstweb>

After reviewing the site, we would appreciate your assistance in filling out this survey to provide us with feedback about the new site. Thank you for your time.

1) How appealing is the look of the new agency website?

☐ very appealing      ☐ somewhat appealing      ☐ just okay      ☐ not appealing

2) How easy was it to find information on the new website?

☐ very easy      ☐ somewhat easy      ☐ just okay      ☐ difficult

3) How easy was it to read the text?

☐ very easy      ☐ somewhat easy      ☐ just okay      ☐ difficult

4) Was content information organized well and easy to understand?

☐ very easy      ☐ somewhat easy      ☐ just okay      ☐ difficult

5) How easy was it to locate information from the buttons on the homepage?

☐ very easy      ☐ somewhat easy      ☐ just okay      ☐ difficult

6) Was it easy to find information when navigating from one page to another?

☐ very easy      ☐ somewhat easy      ☐ just okay      ☐ difficult

7) What other specific comments do you have about the new site?



Please return this form to: **Office of the State Engineer, Attn: Maureen Haney,**  
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**87504-5102**